

§ 758.8

vehicle or air carrier that has been or is being used in exporting or attempting to export any item intended to be, being, or having been exported in violation of the EAR.

(8) *Ordering the unloading.* The U.S. Customs Service is authorized to unload, or to order the unloading of, items from any exporting carrier, whenever the U.S. Customs Service has reasonable cause to believe such items are intended to be, or are being, exported or removed from the United States contrary to the EAR.

(9) *Ordering the return of items.* If, after notice that an inspection of a shipment is to be made, a carrier departs without affording the U.S. Customs Service, Office of Export Enforcement, or BIS personnel an adequate opportunity to examine the shipment, the owner or operator of the exporting carrier and the exporting carrier's agent(s) may be ordered to return items exported on such exporting carrier and make them available for inspection.

(10) *Designating time and place for clearance.* The U.S. Customs Service is authorized to designate times and places at which U.S. exports may move by land transportation to countries contiguous to the United States.

[61 FR 12852, Mar. 25, 1996, as amended at 62 FR 25469, May 9, 1997; 68 FR 50474, Aug. 21, 2003; 78 FR 13470, Feb. 28, 2013; 79 FR 4619, Jan. 29, 2014]

§ 758.8 Return or unloading of cargo at direction of BIS, the Office of Export Enforcement or Customs Service.

(a) *Exporting carrier.* As used in this section, the term "exporting carrier" includes a connecting or on-forwarding carrier, as well as the owner, charterer, agent, master, or any other person in charge of the vessel, aircraft, or other kind of carrier, whether such person is located in the United States or in a foreign country.

(b) *ordering return or unloading of shipment.* Where there are reasonable grounds to believe that a violation of the Export Administration Regulations has occurred, or will occur, with respect to a particular export from the United States, BIS, the Office of Export Enforcement, or the U.S. Customs

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Service may order any person in possession or control of such shipment, including the exporting carrier, to return or unload the shipment. Such person must, as ordered, either:

(1) Return the shipment to the United States or cause it to be returned or;

(2) Unload the shipment at a port of call and take steps to assure that it is placed in custody under bond or other guaranty not to enter the commerce of any foreign country without prior approval of BIS. For the purpose of this section, the furnishing of a copy of the order to any person included within the definition of exporting carrier will be sufficient notice of the order to the exporting carrier.

(c) *Requirements regarding shipment to be unloaded.* The provisions of § 758.5(b) and (c) of this part, relating to reporting, notification to BIS, and the prohibition against unauthorized delivery or entry of the item into a foreign country, shall apply also when items are unloaded at a port of call, as provided in paragraph (b)(2) of this section.

(d) *Notification.* Upon discovery by any person included within the term "exporting carrier," as defined in paragraph (a) of this section, that a violation of the EAR has occurred or will occur with respect to a shipment on board, or otherwise in the possession or control of the carrier, such person must immediately notify both:

(1) The Office of Export Enforcement at the following address: Room H-4520, U.S. Department of Commerce, 14th Street and Constitution Ave., N.W., Washington D.C. 20230, Telephone: (202) 482 1208, Facsimile: (202) 482-0964; and

(2) The person in actual possession or control of the shipment.

§ 758.9 Other applicable laws and regulations.

The provisions of this part 758 apply only to exports regulated by BIS. Nothing contained in this part 758 shall relieve any person from complying with any other law of the United States or rules and regulations issued thereunder, including those governing SEDs, AES records, and manifests, or any applicable rules and regulations of the